

## Message Text

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TO CINCPAC HONO HI PRIORITY

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CINCPAC PASS US TEXTILE NEGOTIATING TEAM

FOL RPT GENEVA 03278 SENT ACTION SECSTATE INFO TOKYO DTD 02 MAR 8

QUOTE: LIMITED OFFICIAL USE GENEVA 03278

PASS STR ELECTRONICALLY

E.O. 11652: N/A

TAGS: ETRD, GATT, JA

SUBJECT: GATT COUNCIL - PANEL REPORT ON THROWN SILK

1. JAPANESE CALLED US URGENTLY TO REQUEST THAT PANEL REPORT ON THROWN SILK BE KEPT OFF MARCH 14 COUNCIL AGENDA AS GOJ HAS DIFFICULTIES WITH REPORT AS DRAFTED BY CHAIRMAN.

2. IN PARTICULAR, JAPANESE FIND OBJECTIONABLE PARAGRAPH 6 OF REPORT, WHICH REFERS TO THE FACT THAT THE PANEL PRESENTED ITS FINDINGS ORALLY TO THE PARTIES CONCERNED. JAPANESE DEL HAS SAID THAT JAPANESE EMBASSY IN WASHINGTON INSTRUCTED TO APPROACH USG TO SEEK CON-  
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CURRENCE IN POSTPONEMENT OF MEETING.

3. JAPANESE HAVE DISCUSSED DELETION OF PARAGRAPH 6 WITH PANEL CHAIRMAN WHO HAS REFUSED. WE TOLD JAPANESE DEL THAT WE HAVE NO PROBLEMS WITH DELETION OF PARAGRAPH BUT THAT IT IS WITHIN THE COMPETENCE OF THE PANEL CHAIRMAN TO DECIDE. JAPANESE THEN ASKED THAT ITEM BE DELETED

FROM GATT COUNCIL AGENDA, AND THEY WILL BE APPROACHING GATT SECRETARIAT TO PRESS THEIR DEMANDS. WE INDICATED TO JAPANESE THAT INSCRIPTION OF ITEM ON AGENDA IS AUTOMATIC ONCE THE PANEL DISTRIBUTES ITS REPORT.

4. PERTINENT PARAGRAPHS OF PANEL REPORT READ AS FOLLOWS BEGINNING WITH PARAGRAPH 4:

"4. THE PANEL BASED ITS DELIBERATIONS ON THE FOLLOWING FACTS:

(A) IN SEPTEMBER 1974 CONTRACTING PARTIES WERE NOTIFIED THAT PURSUANT TO THE (1951) COCOON AND RAW SILK PRICE STABILIZATION LAW THE GOVERNMENT OF JAPAN HAD DECIDED THAT THE JAPAN RAW SILK CORPORATION SHOULD BE AUTHORIZED AS THE SOLE IMPORTER OF RAW SILK, EFFECTIVE 1 AUGUST 1974 (L/3833/ADD.13). IN JULY 1975 CONTRACTING PARTIES WERE ADVISED OF THE EXTENSION OF THE MEASURE UNTIL 31 MAY 1976 (L/4140/ADD.8/SUPPL.1), AND IN MAY 1976 OF A FURTHER EXTENSION "FOR SOME TIME" (L/4296/ADD.7).

(B) IN FEBRUARY 1976, JAPAN INTRODUCED A "PRIOR CONFIRMATION SYSTEM" WITH RESPECT TO IMPORTS OF THROWN SILK YARN, IN ACCORDANCE WITH THE (1949) CABINET ORDER NO. 414 CONCERNING CONTROL OF IMPORT LIMITED OFFICIAL USE

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TRADE (C/M/122, PARAGRAPH 5). THIS WAS REPLACED BY A "PRIOR PERMISSION SYSTEM", EFFECTIVE 18 MAY 1977, "WITH A VIEW TO ENSURING THE FUNCTION OF THE STATE TRADING OF RAW SILK" (L/4509). THE PRIOR PERMISSION SYSTEM APPLIED TO ALL COUNTRIES AND AREAS HAVING PAST PERFORMANCE OR POSSIBILITY OF EXPORTS TO JAPAN OF SILK YARN (CCCN 50.04 AND EX 50.07) AND KNITTED OR CROCHETED FABRIC MADE OF SILK (CCCN EX 60.01-1-(4)).

(C) THE UNITED STATES, CLAIMING THAT ITS EXPORTS OF THROWN SILK YARN HAD BEEN DENIED ENTRY INTO JAPAN BETWEEN FEBRUARY 1976 AND THE INCEPTION OF THE PRIOR PERMISSION SYSTEM AND SEVERELY RESTRICTED UNDER THE LATTER, ENTERED INTO CONSULTATIONS WITH JAPAN, WHICH DID NOT BRING ABOUT A SOLUTION. THE UNITED STATES ACCORDINGLY SOUGHT RECOURSE TO THE PROVISIONS OF ARTICLE XXIII:2 AND ASKED THAT A PANEL BE ESTABLISHED (C/M/122 AND 123, L/4530).

5. IN THE COURSE OF ITS WORK THE PANEL HEARD STATEMENTS BY REPRESENTATIVES OF THE UNITED STATES AND JAPAN. BACKGROUND DOCUMENTS AND RELEVANT INFORMATION

SUBMITTED BY BOTH PARTIES, THEIR REPLIES TO QUESTIONS PUT BY THE PANEL AS WELL AS ALL RELEVANT GATT DOCUMENTATION SERVED AS A BASIS FOR THE EXAMINATION OF THE MATTER. IN ADDITION, THE PANEL HEARD THE SPOKESMAN FOR THE EUROPEAN COMMUNITIES ON THE DIFFERENT ASPECTS OF THE MATTER, IN ACCORDANCE WITH HIS DELEGATION'S REQUEST MADE TO THE COUNCIL (C/M/122, PARAGRAPH 5), AND RECEIVED WRITTEN INFORMATION FROM THE EUROPEAN COMMUNITIES THAT WAS REQUESTED BY THE PANEL. DURING THE PROCEEDINGS, THE PANEL ATTEMPTED TO BRING ABOUT A COMPROMISE BETWEEN THE TWO PARTIES IN THE MATTER BEFORE IT.

6. ON 13 DECEMBER 1977 THE PANEL PRESENTED ITS FIND-LIMITED OFFICIAL USE

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INGS ORALLY TO THE PARTIES AND INVITED THEM TO INFORM THE PANEL BY THE END OF THE YEAR WHETHER THEY THOUGHT IT POSSIBLE TO ARRIVE AT AN AGREEMENT ON THE BASIS OF BILATERAL CONSULTATIONS. AN AFFIRMATIVE INDICATION TO THIS EFFECT WAS GIVEN WITHIN THE SPECIFIED TIME-LIMIT.

7. ON 15 FEBRUARY 1978 THE PANEL WAS INFORMED THAT THE BILATERAL CONSULTATIONS BETWEEN THE UNITED STATES AND JAPAN HAD BEEN BROUGHT TO A SUCCESSFUL CONCLUSION AND THAT, AS A RESULT OF THESE CONSULTATIONS, THE GOVERNMENT OF THE UNITED STATES IS SATISFIED WITH THE WAY IN WHICH THE GOVERNMENT OF JAPAN WILL IMPLEMENT THE PRIOR PERMISSION SYSTEM ON THROWN SILK YARN.

8. SINCE THE TERMS OF REFERENCE OF THE PANEL WERE TO MAKE SUCH FINDINGS AS WOULD ASSIST THE CONTRACTING PARTIES IN MAKING RECOMMENDATIONS OR RULINGS IN ACCORDANCE WITH PARAGRAPH 2 OF ARTICLE XXIII, THE PANEL DRAWS THE ATTENTION OF THE COUNCIL TO THE FACT THAT THE PARTIES HAVE ARRIVED AT A BILATERAL SOLUTION. CONSEQUENTLY, THE PANEL CONSIDERS THAT IT IS UNNECESSARY TO UNDERTAKE FURTHER INVESTIGATION OF THIS MATTER."

9. AFTER TYPING ABOVE WE HAVE LEARNED THAT ALL THREE MEMBERS OF GATT PANEL REFUSE TO CHANGE REPORT AND THAT IT WILL BE CIRCULATED AS WRITTEN TODAY. PANEL MEMBERS EVIDENTLY BELIEVE THAT THEY HAVE ALREADY GONE FURTHER THAN ANY PREVIOUS PANEL IN TAKING THE VIEWS OF DISPUTANTS INTO ACCOUNT IN WRITING REPORT AND WANT TO INDICATE TO COUNCIL THAT THEY FULFILLED THEIR TASK AS INSTRUCTED. WHETHER ITEM IS ON AGENDA OR NOT LIMITED OFFICIAL USE

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DEPENDS UPON COUNCIL CHAIRMAN YUNIS. WE UNDERSTAND THAT JAPANESE AMBASSADOR SAWAKI WILL APPROACH YUNIS TODAY TO KEEP ITEM OFF AGENDA.

10. COMMENT: WE ARE NOT IN A POSITION TO JUDGE JAPANESE POLITICAL SENSITIVENESS TO THIS ISSUE BUT JAPANESE EVIDENTLY BELIEVE THAT THIS PARAGRAPH COULD LEAD TO EMBARRASSING QUESTIONS BY OPPOSITION IN DIET AND THAT PUTTING OFF ITEM UNTIL NEXT COUNCIL COULD EASE POLITICAL RISK INVOLVED. FROM HERE WE FIND IT HARD TO VISUALIZE JAPANESE OPPOSITION POURING OVER GATT REPORTS AND BELIEVE THAT JAPANESE ARE OVER-REACTING. NEVERTHELESS, WE SEE NO REAL HARM IN LEAVING ITEM OFF AGENDA UNTIL SUBSEQUENT MEETING IF IT WILL HELP TO ASSURE THAT UNDERSTANDING ARRIVED AT IN TOKYO IS NOT ENDANGERED. UNLESS INSTRUCTED OTHERWISE BY 6:00 PM GENEVA TIME MARCH 2 WE INTEND TO ACQUIESCE IN DELETION OF ITEM FROM AGENDA FOR MARCH 14 COUNCIL IF REQUESTED. SORENSON UNQUOTE CHRISTOPHER

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## Message Attributes

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